

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

LUIS NIEVES,

Plaintiff,

05-CV-00017S(Sr)

v.

FRANCES GONZALEZ, et al.,

Defendants.

DECISION AND ORDER

Pursuant to 28 U.S.C. § 636(c), the parties have consented to the assignment of this case to the undersigned to conduct all proceedings in this case, including the entry of final judgment. Dkt. #72.

By Decision and Order entered March 19, 2008, the Court granted defendants' motion to depose a non-party witness, William Branshaw. Dkt. #78. Plaintiff alleged that Mr. Branshaw, who is currently incarcerated at the Clinton Correctional Facility, worked with the defendants to deprive plaintiff of his civil rights. Dkt. #74, ¶ 11.

Defense counsel served Mr. Branshaw with a Notice of Deposition for May 22, 2008. Dkt. #80. In response, Mr. Branshaw submitted an affidavit declining to submit to the deposition because he did not know plaintiff and had no knowledge of any civil rights violation.

A telephone conference will be held on **May 12, 2008 at 10:00 AM** to further discuss this matter. The Assistant Attorney General should contact the Clinton Correctional Facility and arrange for Mr. Branshaw to have access to a telephone at that time. The Assistant Attorney General should also contact the Walkill Correctional Facility and arrange for the plaintiff to have access to a telephone and plaintiff's legal papers at that time. The Assistant Attorney General should contact the Magistrate Judge's Chambers **prior** to the conference with the telephone numbers for Mr. Branshaw and for plaintiff. **The Court will initiate the call.** Defendants' counsel need not appear personally but can participate by telephone from his office.

SO ORDERED.

DATED: Buffalo, New York
April 30, 2008

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge